

9.1 DISCIPLINE

9.1 CAUSES FOR

Employees may be disciplined by the Chief for any cause which promotes the efficiency of the service. Grounds for discipline may include, but need not be limited to, one or more of the following:

- (a) incompetency or inefficiency in the performance of job duties;
- (b) conduct, on or off the job, unbecoming an employee of the Department;
- (c) violations of departmental rules, metro-wide policies, laws of the Commonwealth of Kentucky, or the United States, and/or these Rules;
- (d) behavior which has threatened or injured the health and safety of the employee or others;
- (e) any absence without leave;
- (f) insubordination; and
- (g) solicitation or acceptance of any reward, gift or other form of remuneration aside from regular compensation for the performance of duties.

9.2 TYPES OF DISCIPLINARY ACTION

9.2(1) Reprimands

Oral and written reprimands shall be viewed as warnings issued to an employee that if unacceptable work performance or behavior continues, discipline shall be applied. The Chief shall include copies of written reprimands in the employee's personnel file. Reprimands are not appealable. An employee who has received a reprimand may make a written response to the reprimand within ten (10) days, which shall be included with the reprimand in the employee's personnel file.

9.2(2) Suspension

- (a) The Chief may suspend police officers as a disciplinary measure. Disciplinary suspensions for individual offenses may be for any length of time up to thirty (30) days.
- (b) Suspensions shall become effective immediately upon notification by the Chief to the employee.
- (c) Disciplinary suspensions may be appealed to the Board.

9.2(3) Demotions

The Chief may demote an employee as a disciplinary measure subject to the general provisions for demotion in Rule 12.1.

9.2(4) Fines

The assessment of fines as a disciplinary action shall not be permitted.

9.2(5) Dismissal

- (a) The Chief may dismiss an employee for any reason provided in Rule 9.1.
- (b) Dismissals are effective as of the date of notification of the employee.
- (c) Permanent employees may appeal dismissals. In the event that the Board determines that the dismissal was unjustified or unsupported by proper evidence, the employee shall be reinstated and the Board may impose such penalty or punishment as it may deem necessary and appropriate, if any.
- (d) Police officers who are dismissed may not be reemployed, reinstated or rehired within the Classified Service, except by reinstatement by the Board on review of a dismissal.

9.3 INITIATED BY THE CHIEF

- 9.3(1) Any officer may be removed or suspended for a period not to exceed thirty (30) days, laid off, or reduced in grade by the Chief for any cause which promotes the efficiency of the service.
- 9.3(2) Before any such action is taken by the Chief against any officer, the Chief shall provide the officer concerned with written notice of the charge, the action to be taken, and reasons for the action. Unless otherwise stated in the notice, the effective date of the disciplinary action shall be the date of the notice from the Chief. The notice shall inform the employee of his/her rights under Rule 9.3(3) and 9.3(4) and a copy of the notice shall be provided to the Secretary.
- 9.3(3) Any police officer removed, suspended, laid off, reduced in grade or reprimanded by the Chief shall be allowed a period of ten (10) days from the date of notice from the Chief to file a written response to the disciplinary action which shall be made a part of the officer's permanent personnel record in the Police Department. No trial or examination of witnesses shall be required in any such case except at the discretion of the Chief.
- 9.3(4) Disciplinary action taken by the Chief involving suspension, demotion, or dismissal of any permanent officer shall be subject to review by the Board on an appeal by the employee. If such a review is requested in writing, within 10 (ten) days from the effective date of the disciplinary action, the Board shall schedule and conduct a public hearing to review the action of the Chief subject to the Hearing Procedures of the Board and applicable statutes.
- 9.3(5) Every action in the nature of a dismissal, suspension, or demotion of a non-probationary officer made by the Chief shall be subject to review by the Board at the request of any officer affected by KRS 67C.301 to 67C.327. An appeal to the Board of a dismissal, demotion, or a forty (40) hour or more suspension of a non-probationary officer shall be heard by the full Board. The Board shall give notice and hold a public hearing. After the hearing, the Board shall retire in executive session to discuss the evidence introduced at the hearing and to make its determination and conclusion. While in executive session, the Board shall not receive any further evidence or communication from any source prior to reaching its determination and conclusion. The Board, while in executive session, may request and receive legal advice from Board Counsel on specific legal issues which may arise during deliberations. If a majority of the members of the Board are of the opinion that the action of the Chief is unjustified or unsupported by proper evidence, the order of the Chief may be set aside and revoked by the Board, and the Board may impose the penalty or punishment it deems necessary and appropriate, if any; provided however, the Board shall not impose a penalty or punishment in excess of the action of the Chief. No officer shall be removed or dismissed except as provided for in this section.

9.3 INITIATED BY THE CHIEF (cont.)

- 9.3(6) An appeal to the Board of a suspension of a non-probationary officer of less than forty (40) hours may be heard by the full board or any hearing officer secured by the Board. If the appeal is heard by a hearing officer, all rules established by the Board relating to appeals of disciplinary actions shall be applicable. After the hearing, the hearing officer shall complete and submit to the Board, no later than thirty (30) days after the hearing, a written recommended order which shall include his findings of fact, conclusions of law, and recommended disposition of the appeal, which may include recommended penalties. The recommended order shall also include a statement advising the appealing officer and Chief fully of their exception and appeal rights. A copy of the hearing officer's recommended order shall be sent to the appealing officer and Chief. Each party shall have fifteen (15) days from the date the recommended order is mailed within which to file exceptions to the recommendations with the Board. The Board shall consider the record including the recommended order in any exceptions duly filed to a recommended order, and accept and adopt or reject or modify, in whole or in part, the recommended order, or remand the appeal of the matter, in whole or in part, to the hearing officer for further proceedings as appropriate. The final order of the Board shall be in writing. If the final order differs from the recommended order, it shall include separate statements of findings of fact and conclusions of law. The Board shall render a final order in an administrative hearing within thirty (30) days after receipt of the hearing officer's recommended order.
- 9.3(7) (a) Every action of a dismissal, suspension, or demotion made by the Board shall be final, except that any person aggrieved may, within thirty (30) days after the action, appeal to the Circuit Court of the county in which the board meets. The Board shall be named respondent as the consolidated local government police force merit board, and service shall be had on the chairman of the board. The appeal taken to the Circuit Court shall be docketed by the clerk as a civil action with appropriate judicial review of an administrative action or decision.
- (b) The judgment of the Circuit Court shall be subject to appeal of the Court of Appeals. The procedure as to the appeal to the Court of Appeals shall be the same as in any civil action.

9.4 DISCIPLINARY ACTION INITIATED BY CITIZEN COMPLAINT

- 9.4(1) Any citizen may make a charge of misconduct, concerning the action of any employee, in writing and under oath, to the Chief. If not satisfied with the response of the Chief, the citizen may appeal the determination of the Chief to the Board within thirty (30) days, setting forth the particulars of the charge. The written appeal must provide specific reasons why the Chief's decision is thought to be erroneous; an estimate of the amount of time the citizen needs to present his/her position; and evidentiary materials (written documentation or other evidence) that supports the citizen's position.
- 9.4(2) The Board shall notify the Chief of the appeal and forward to the Chief all materials filed by the citizen. The Board also shall give notice and provide copies of such materials to the officer who is the subject of the appeal.
- 9.4(3) The Chief has fifteen (15) days to file a written answer to said charges. The officer may respond if he or she wishes.
- 9.4(4) The Secretary and Legal Counsel for the Board shall review the citizen's appeal, the Chief's response, and the officer's response, if any, and determine if there is sufficient cause for additional investigation, review or hearing by the Board and shall advise the Board accordingly.
- 9.4(5) The Board may adopt the recommendation of the Secretary and Legal Counsel or may order further investigation or hearing. The Board shall determine the scope of the investigation or hearing.
- 9.4(6) If the Board requires a hearing after investigating the citizen appeal, the Board may assign the matter to a hearing officer or the Board itself may conduct the hearing. In either case, the hearing shall be conducted as indicated in these Rules and the Board's Hearing Procedures.
- 9.4(7) In conducting an investigation or hearing regarding a citizen appeal, the Board also shall comply with the provisions of KRS 15.520.

10.1 APPEALS AND HEARINGS

10.1 GENERAL PROVISIONS

- 10.1(1) Permanent police officers who are suspended, demoted, or dismissed may appeal to the Board for a review of the action as provided by statute.
- 10.1(2) Appeals requesting Board review must be made in writing, addressed to the Board with a copy to the Chief. The written appeal must be made within ten days of the effective date of the disciplinary action and must include a statement of the grounds for appeal.
- 10.1(3) A police officer who submits an appeal for Board review of a disciplinary action shall be provided a copy of the Hearing Procedures of the Board, which shall govern all hearings conducted by the Board.
- 10.1(4) A police officer granted a Board hearing shall have the right to be represented by legal counsel at the hearing and during the hearing process.
- 10.1(5) Procedural due process shall be afforded to any police officer brought before the Board. The officer shall be given a prompt hearing by the Board, have an opportunity to confront his or her accusers, and have the privilege of presenting the Board with evidence. The Board shall have the power to issue subpoenas attested in the name of its chairman, to compel the attendance of witnesses, to compel the production of documents and other documentary evidence, and so far as practicable, conduct the hearing within the Kentucky Rules of Civil Procedure. Upon a showing of proper need, the Board shall issue subpoenas to compel the attendance of witnesses, or to compel the production of documents and other documentary evidence for the benefit of the officer or the Chief at the request of the officer or the Chief.